THE HONOURABLE SRI JUSTICE GODA RAGHURAM
AND
THE HONOURABLE SRI JUSTICE S. ANANDA REDDY

WRIT PETITION NO. 8277 of 2005

22-06-2007

Between:

D.Vittal S/o late D.Limbadri
Atmakur, Nellore District

… Petitioner

And:

The High Court of AP
rep by its Registrar (Vigilance)
Hyderabad and others

… Respondent

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ORAL ORDER: (Per Hon'ble Sri Justice G.Raghuram)

The petitioner is aggrieved that he is not promoted as a Senior Civil Judge while his juniors were promoted as such and seeks a direction to the 1st respondent to consider his case for promotion as Senior Civil Judge w.e.f. 02.10.2004, the date on which his juniors were so promoted.

The petitioner while working as a Head Clerk, District Court, Nizamabad, was appointed on transfer as District Munsif and joined duty as such on 9.12.1985. On 6.1.1986 the petitioner was repatriated to his parent department for want of

vacancy. relieved from the post of District Munsif on 15.01.1986. He was again appointed as District Munsif and joined duty on 13.3.1986. Thereafter he was selected on recruitment by transfer into the State Judicial Service and joined service on 21.09.1992. On 13.10.1992 he was placed under suspension pending enquiry and eventually a penalty of removal from service awarded by G.O.Ms.No. 455 Home (Courts) Department, dated 14.6.1994. By way of Writ Petition No. 14615 of 1994 he questioned the order of removal.

By the judgment dated 6.6.2002 a Division Bench of this court allowed the writ petition, set aside the order of removal dated 14.6.1994. Consequently the petitioner was reinstated into service with continuity of service and all attendant benefits except back wages for the period between the date of his removal from service and the date of reinstatement into service, as per the judgment.

According to the petitioner, 11 officers who were juniors to him in the category of Junior Civil Judge were temporarily promoted as Senior Civil Judges by proceedings dated 2.10.2004 in supersession of his claims.

The 1st respondent has filed a counter affidavit stating that the High Court on the administrative side had taken up the cases of eligible Junior Civil Judges for consideration for appointment by promotion as Senior Civil Judges. Along with other officers the case of the petitioner was also considered by the Administrative Committee of the High Court in its meetings held on 15.6.2004, 3.8.2004 and 1.3.2005. On all the three occasions the case of the petitioner was rejected as he was not found fit for appointment as a Senior Civil Judge. It is also pleaded that according to Rule 4(4) of the AP State Judicial Service Rules, which govern appointments to the posts of

Senior Civil Judge by promotion, merit and ability are the criteria for selection and seniority to be considered only where merit and ability are equal. As appointment to the post of Senior Civil Judge is by a process of selection and the High Court on three occasions considered the case of the petitioner and found him not suitable for appointment to the selection post of Senior Civil Judge, he could not be promoted, is the comprehensive defence of the respondents. It is also stated in the counter that the petitioner's services were not continued beyond 58 years of age as the High Court was not satisfied that the petitioner will have continued utility beyond 58 years of age. Accordingly by an order in G.O.Ms.No. 101 Home (Courts-C1) Department, dated 27.7.2005, on the basis of the recommendations of the High Court, the petitioner was compulsorily retired from service w.e.f. 31.7.2005.

Appointment to the post of Senior Civil Judge is, under Rule 4(4) of the AP State Judicial Service Rules, a selection post , whereto appointments are to be made on the basis of merit and ability, seniority to be considered only where merit and ability are approximately equal. The High Court on administrative side on three distant occasions found no justification for appointment of the petitioner on promotion as Senior Civil Judge. The petitioner does not project any reasonable cause for disagreement with the assessment of his non-suitability by the competent authority.

There are no merits. The writ petition is accordingly dismissed. No order as to costs.

Dated 22.06.2007 ----------

Justice

G.Raghuram

Justice S.Ananda Reddy